

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA

- v. -

JOHN AVILES,

Defendant.

- - - - - x

COUNT ONE

INFORMATION

S1 07 Cr. 588

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED **JUL 16 2008**

The United States Attorney charges:

1. From in or about 2004, up to and including in or about January 2007, in the Southern District of New York and elsewhere, JOHN AVILES, the defendant, unlawfully, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations and promises, for the purpose of executing such scheme and artifice and attempting so to do, placed in a post office and authorized depository for mail matter, matters and things to be sent and delivered by the Postal Service, and deposited and caused to be deposited matters and things to be sent and delivered by private and commercial interstate carriers, and took and received therefrom, and knowingly caused to be delivered by mail and such carriers, according to the directions thereon, such matters and things, to wit, AVILES, having devised a scheme to take money

from others by entering into sham sales of various items, agreed to sell certain items, directed others to mail payment for these items to an address in New York, New York, and elsewhere, and, after receiving payment and cashing the purchasers' checks and money orders, never sent the items to the purchasers.

(Title 18, United States Code, Sections 1341 and 2.)

FORFEITURE ALLEGATION

2. As the result of committing the offenses in violation of Title 18, United States Code, Sections 1341 and 2, as alleged in Count One of this Information, JOHN AVILES, the defendant, shall forfeit to the United States, pursuant to 18 U.S.C. § 981(a)(1)(C) and 28 U.S.C. § 2461, all property, real and personal, that represents or is traceable to the gross receipts obtained, directly or indirectly, from the commission of the charged offenses, including but not limited to the following:

a. At least \$119,769.04 in United States currency, in that such sum in aggregate is property representing the amount of monies obtained as a result of the offenses charged in this Information.

Substitute Asset Provision

3. If any of the above-described forfeitable property, as a result of any act or omission of the defendant:

(1) cannot be located upon the exercise of due diligence;

- (2) has been transferred or sold to, or deposited with, a third person;
- (3) has been placed beyond the jurisdiction of the Court;
- (4) has been substantially diminished in value; or
- (5) has been commingled with other property which cannot be subdivided without difficulty;

it is the intent of the United States, pursuant to 28 U.S.C. § 2461, to seek forfeiture of any other property of said defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 981, and Title 28, United States Code, Section 2461.)

  
MICHAEL J. GARCIA  
United States Attorney

Form No. USA-33s-274 (Ed. 9-25-58)

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(18 U.S.C. §§ 1341 & 2)

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MICHAEL J. GARCIA  
United States Attorney.

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Foreperson.

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7/16/08  
GJH

Waiver of Indel. filed  
Info filed

M.D. Gorman